

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.5838 OF 2005

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Dated 09-04-2007

Between:

Bande Nawaz Traders

...Petitioner

And

The Commissioner of Commercial
Taxes and another

...Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.5838 OF 2005

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ORDER *(Per the Hon'ble Sri Justice Bilal Nazki):*

The petitioner has challenged the order dated 22-12-2004 passed by the Assistant Commissioner (CT) IV, Enforcement Wing, Hyderabad-the second respondent. The order discloses that the business premises of the petitioner were inspected on 22-12-2004 and certain irregularities were found, the partner of the business firm came forward and offered Rs.5000/- as compounding fee which was accepted by the Department and thereafter on the same day he was also given a show cause notice as to why he should not be prosecuted.

Passing of the assessment orders, without issuing formal show cause notices, on the same day of inspection of the business premises was subject matter of a Full Bench Judgment of this Court in ***Ambica Lamp House v. Commercial Tax Officer (INT)-I Enforcement, Hyderabad and another***^[1]. This Court gave detailed guidelines as to how the Officers of the Vigilance/Intelligence Wing of the Department have to proceed in cases of inspection, assessment and compounding of the offence. In the present case, we find that everything has been

done on the same day i.e. on 22-12-2004. No assessment had been made and as such, the order, dated 22-12-2004, cannot be sustained.

Following the judgment of the Full Bench supra, we allow the writ petition and quash the order dated 22-12-2004 and also the consequential notices issued. No order as to costs.

(Bilal Nazki,J)

Dated 9th April, 2007

(Nooty Ramamohana Rao,J)

vrn

[\[1\]](#) 142 STC 551